

ORDINANCE NO. \_\_\_\_\_ - 2008

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTIONS 9.5-68 AND 9.5-69 OF THE MONROE COUNTY CODE CONCERNING CONDITIONAL USES; AMENDING PROCEDURES AND DELETING OBSOLETE PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR TRANSMISSION TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

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**WHEREAS**, since enactment of the Land Development Regulations in the 1980s the actual processing of Conditional Uses by the Growth Management Division has changed to reflect the needs of applicants and the structure of the Planning Department; and

**WHEREAS**, the process should be accurately reflected in the regulations and land development code for the benefit of the public;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY:**

**Section 1.** Section 9.5-68 is amended as follows:

**Sec. 9.5-68. Minor conditional uses.**

(a) *Applications for a Minor Conditional Use Permit:* An application for a minor conditional use permit shall be submitted to the Planning Department development review coordinator in the form provided by the director of planning. ~~If approval of a plat is required for the proposed development, an application for plat approval shall be submitted in conjunction with the application for a conditional use permit. If an application for a minor conditional use includes a major conditional use, then the minor~~

1 application for a minor conditional use includes a major conditional use, then the minor  
2 conditional use shall be considered in conjunction with the major conditional use in  
3 accordance with the procedures of section 9.5-69.

4 (b) *Review by the Development Review Committee:* An application for a minor  
5 conditional use permit shall be reviewed by the development review committee within  
6 thirty days of receipt of a complete application. The development review committee  
7 members shall make comment forward its report and recommendation on the application  
8 for a minor conditional use permit and the responsible staff shall forward such comments  
9 to the director of planning. ~~within ten (10) working days of its determination of~~  
10 ~~completeness.~~

11 (c) *Decision by the Director of Planning:* Within ~~ten (10)~~ thirty (30) working days after  
12 ~~receiving the report and recommendation of the meeting of the~~ development-review  
13 committee, the director of planning shall render a development order granting, granting  
14 with conditions, or denying the application for a minor conditional use permit, with the  
15 exception of applications where a condition(s) has been imposed that must be satisfied  
16 prior to the issuance of a development order, in which case the development order shall  
17 be issued thirty working days after receipt of proof of satisfaction of the condition(s).

18  
19 (d) *Notice of Grant of a Minor Conditional Use Permit:* The director of planning shall  
20 give notice of any development order granting a minor conditional use by sending a  
21 written notice to all owners of real property located within three hundred (300) feet of the  
22 property that is subject to the minor conditional use permit, and notice of the intent to  
23 issue the minor conditional approval shall be published in the newspapers of local  
24 circulation in the county by advertisement in the legal section. The costs of publication  
25 and written notice are to be borne by the applicant. Notice by the planning director shall  
26 be by regular mail on the day of the granting of the minor conditional use.

27 (e) *Consideration of a Minor Conditional Use Approval by the Planning*  
28 *Commission:* An administrative appeal ~~Consideration~~ of a minor conditional use approval  
29 shall be governed by the provisions of article XII.

30 (f) ~~*Public Hearing on an Application for a Minor Conditional Use Permit:*~~ The public  
31 ~~hearing on an application for minor conditional use, if requested by the applicant, an~~

~~adjacent property owner, or an aggrieved or adversely affected person, as defined by section 163.3215(2), Florida Statutes (1985), or any resident or real property owner, shall be conducted by the planning commission in accordance with the provisions of section 9.5-521(e).~~

**Section 2.** Section 9.5-69 shall be amended as follows:

**Sec. 9.5-69. Major conditional uses.**

(a) *Applications for Major Conditional Uses:* An application for a major conditional use permit shall be submitted to the Planning Department ~~development review coordinator~~ in a form provided by the director of planning.

(1) If approval of a plat is required for the proposed development, an application for plat approval shall be submitted in conjunction with the application for a conditional use permit. However, a major conditional use shall not become effective until the plat has been approved by the board of county commissioners.

(2) As a part of the application for major conditional use, an applicant shall be required to submit the following, except for those inappropriate to the proposed development due to the limited size or scale of the development as determined by the planning director:

a. An environmental designation survey consisting of:

(i) A plan drawn to a scale of one (1) inch equals twenty (20) feet or less, except where impractical and the planning director authorizes a smaller scale, and showing the following:

1. Location of property;
2. Date, approximate north point and graphic scale;
3. Acreage within the property;
4. Boundary lines of the property and their bearings and distances;
5. Topography and typical ground cover;
6. General surface characteristics, water areas and drainage patterns;
7. Contours at an interval of not greater than one (1) foot or at lesser intervals if deemed necessary for review purposes;

- 1 8. 100-year flood-prone areas by flood zone;
- 2 9. Presently developed and/or already altered areas; and
- 3 10. Location of mean high-water line.
- 4 (ii) A natural vegetation map and/or a map of unique environmental features such as:
  - 5 1. Climax tropical hardwood hammocks;
  - 6 2. Endangered species habitats;
  - 7 3. Major wildlife intensive use areas.
- 8 (iii) Aerial photographs of the property and surrounding area.
- 9 (iv) A review of historical and archeological sites by the Florida Division of Archives,  
10 History and Records Management.
- 11 (v) A review of unique environmental features such as:
  - 12 1. Climax tropical hardwood hammocks;
  - 13 2. Endangered species habitats;
  - 14 3. Major wildlife intensive use areas.
- 15 (vi) Actual acreage of specific vegetation species or other environmental characteristics.
- 16 (vii) General information relating to the property in regard to the potential impact which  
17 development of the site could have on the area's natural environment and ecology.
- 18 (viii) Environmental resources:
  - 19 1. If shoreline zones were identified, describe in detail any proposed site alterations in  
20 the areas, including vegetation removal, dredging, canals or channels; identify measures  
21 which have been taken to protect the natural, biological functions of vegetation within  
22 this area such as shoreline stabilization, wildlife and marine habitat, marine productivity  
23 and water quality maintenance.
  - 24 2. If tropical hammock communities or other protected vegetative communities were  
25 identified, describe proposed site alteration in those areas and indicate measures which  
26 were taken to protect intact areas prior to, during and after construction.
  - 27 3. Describe plans for vegetation and landscaping of cleared sites including a completion  
28 schedule for such work.
- 29 (ix) Environmental resources-wildlife. Describe the wildlife species which nest, feed or  
30 reside on or adjacent to the proposed site. Specifically identify those species considered

1 to be threatened or endangered. Indicate measures which will be taken to protect wildlife  
2 and their habitats.

3 (x) Environmental resources-water quality:

4 1. Identify any waste water disposal areas, including stormwater runoff, septic tank  
5 drain-fields, impervious surfaces and construction-related runoff; describe anticipated  
6 volume and characteristics. Indicate measures taken to minimize the adverse impacts of  
7 these potential pollution sources upon the quality of the receiving waters prior to, during,  
8 and after construction; identify the nearshore water quality; and identify how this  
9 development will not adversely impact the nearshore water quality.

10 2. Indicate the degree to which any natural drainage patterns have been incorporated into  
11 the drainage system of the project.

12 b. A community impact statement, including:

13 (i) General description of proposed development:

14 1. Provide a general written description of the proposed development; include in this  
15 description the proposed phases of development or operation and facility utilization,  
16 target dates for each of these, and date of completion; in addition, indicate the site size,  
17 developing staging and appropriate descriptive measures such as quantity and type of  
18 residential units, commercial floor area, tourist accommodation units, seating and parking  
19 capacities; for residential development, indicate the anticipated unit-per-acre density of  
20 the completed project;

21 2. Identify aspects of the project design, such as a clustering, which were incorporated to  
22 reduce public facilities costs and improve the scenic quality of the development; describe  
23 building and siting specifications which were utilized to reduce hurricane and fire damage  
24 potential to comply with federal flood insurance regulations and the comprehensive land  
25 use plan.

26 (ii) Impact assessment on public facilities and water supply:

27 1. Identify projected daily potable water demands at the end of each development phase  
28 and specify any consumption rates which have been assumed for the projection;

29 2. Provide proof of coordination with the Florida Keys Aqueduct Authority; assess the  
30 present and projected capacity of the water supply system and the ability of such system  
31 to provide adequate water for the proposed development;

3. Describe measures to ensure that water pressure and flow will be adequate for fire protection for the type of construction proposed.

(iii) Public facilities-wastewater management:

1. Provide proof of coordination with the Florida Department of Health and Rehabilitative Services;

2. Provide projection of the average flows of wastewater generated by the development at the end of each development phase; describe proposed treatment system, method and degree of treatment, quality of effluent, and location of effluent and sludge disposal areas; identify method and responsibilities for operation and maintenance of facilities;

3. If public facilities are to be utilized, provide proof of coordination with the Monroe County Waste Collection and Disposal District; assess the present and projected capacity of the treatment and transmission facilities and the ability of such facilities to provide adequate service to the proposed development;

4. If applicable, provide a description of the volume and characteristics of any industrial or other effluents.

(iv) Public facilities-solid waste:

1. Identify projected average daily volumes of solid waste generated by the development at the end of each phase; indicate proposed methods of treatment and disposal;

2. Provide proof of coordination with Monroe County Municipal Services District; assess the present and projected capacity of the solid waste treatment and disposal system and the ability of such facilities to provide adequate services to the proposed development;

3. Comply with the requirements of section 9.5-426 of this chapter concerning any applicable traffic study.

(v) Public facilities-transportation:

1. Provide a projection of the expected vehicle trip generation at the completion of each development phase; describe in terms of external trip generation and average daily and peak hour traffic;

2. If the project site is adjacent to U.S. 1, describe the measures, such as setbacks and access limitations, which have been incorporated into the project design to reduce impacts upon U.S. 1.

(vi) Housing:

1. If the project includes residential development, provide breakdown of the proposed residential units by price range or rental range and type of unit such as single-family, duplex, townhouse, etc.;
2. If lots are to be sold without constructed dwelling units, indicate the number and percentage of such lots and the extent of improvements to be made prior to sale;
3. Assess the potential of the proposed development to meet local or regional housing needs; in particular, indicate any measures taken to provide low-and moderate-income housing.

(vii) Special considerations:

1. Describe the relationship of the proposed development to the comprehensive land use plan objectives and policies; also indicate relationships [between] existing or proposed public facilities plans; identify any conflicts;
2. Indicate any relationships of the project to special land use and development district such as airport noise and hazard zones, solid or liquid waste treatment or disposal areas;
3. If applicable, assess the impact of the proposed development upon other adjacent or nearby municipalities or counties.

(viii) The data and information provided in a community impact statement shall be coordinated with data and other information and/or permits required by local, regional, state or federal regulatory or reviewing agencies as appropriate to the major conditional use proposed.

(b) *Review by the Development Review Committee:* An application for a major conditional use permit shall be reviewed by the development review committee within thirty (30) working days after receipt of a complete application . The development review committee shall give comments to the applicant, responsible staff and the planning director. Within thirty (30) working days of the meeting or within thirty working days after any additional information required from the applicant is furnished, the department shall provide for advertisement of any required public hearing by the planning commission. ~~Within fifteen (15) working days after the submission of a complete application for a major conditional use permit, the development review committee shall~~

1 forward a report and recommendation on the application for a major conditional use  
2 permit to the planning commission.

3 (c) *Public Hearing on an Application for a Major Conditional Use Permit:* The  
4 planning commission shall hold a public hearing on the application for a major  
5 conditional use permit and shall, within forty five (45) working days of the submission  
6 of a complete application for a major conditional use permit to the development review  
7 coordinator issue a development order granting, granting with conditions or denying the  
8 application for a major conditional use permit, within thirty calendar days of the meeting  
9 or of the applicants fulfilling conditions precedent to the development order.

10 (d) *Notice of Grant of a Major Conditional Use Permit:* The director of planning shall  
11 give notice of any development order granting a major conditional use by sending a  
12 written notice to all owners of real property located within three hundred (300) feet of the  
13 property that is the subject of the major conditional use permit, and notice of the intent to  
14 issue the major conditional approval shall be published in newspapers of local circulation  
15 in the county by advertisement other than in the legal notice section with the cost to be  
16 borne by the applicant. Notice by the planning director shall be by regular mail within  
17 fifteen (15) days of the granting of the major conditional use.

18 (e) *(d)Appeal of a Conditional Use Approved by the Planning Commission:* The  
19 applicant, an adjacent property owner, or any aggrieved or adversely affected person, as  
20 defined by Florida Statutes section 163.3215(2), or any person who presented testimony  
21 or evidence at the public hearing conducted pursuant to subsection (c), may request an  
22 appeal of the planning commission's major conditional use decision under the hearing  
23 officer appellate article of these regulations [§ 9.5-532 et seq.] by filing the notice  
24 required by that article within thirty (30) days after the publication of notice or sending of  
25 the written notice by the county, whichever is later.  
26 of the written decision of the planning commission.

### 27 28 **Section 3. Severability.**

29 If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall  
30 be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not  
31 affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof



1 shall be confined to the section, paragraph, subdivision, clause, sentence, or provision  
2 immediately involved in the controversy in which such judgment or decree shall be rendered.

3  
4 **Section 4. Conflicting Provisions.**

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6 In the case of direct conflict between any provision of this ordinance and a portion or  
7 provision of any appropriate federal, state, or County law, rule code or regulation, the more  
8 restrictive shall apply.

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10 **Section 5. Transmittal.**

11 This ordinance shall be transmitted by the Planning and Environmental Resources  
12 Department to the Florida Department of Community Affairs to determine the consistency of  
13 this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

14  
15 **Section 6. Filing.**

16  
17 This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall  
18 not become effective until a notice is issued by the Department of Community Affairs or  
19 Administration Commission approving the ordinance.

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21 **Section 7. Effective Date.**

22  
23 This ordinance shall become effective as provided by law and stated above.

24  
25 PASSED AND ADOPTED by the Board of County Commissioners of Monroe County,  
26 Florida at a regular meeting held on the \_\_\_\_\_ of \_\_\_\_\_ 2008.

27  
28  
29 Mayor Mario DiGennaro \_\_\_\_\_

30 Mayor Pro Tem Charles McCoy \_\_\_\_\_

31 Commissioner Sylvia Murphy \_\_\_\_\_

October 8, 2008 PC

Commissioner George Neugent

Commissioner Dixie Spehar

(SEAL)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By \_\_\_\_\_  
Deputy Clerk

By \_\_\_\_\_  
Mayor/Chairperson